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TMCO, Ltd.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

TMCO, LTD., a Bulgarian company,

Plaintiff,

vs.

MIKHAIL BRODSKY, an individual;
TATYANA BRODSKY, an individual;
LINCOLN UNIVERSITY, a California
non-profit organization; and DOES 1
through 10, inclusive,

Defendants.

Case No.: __

COMPLAINT FOR:

**(1) Avoidance of Fraudulent Transfer
(Actual Intent to Defraud, Cal. Civ.
Code § 3439.04);**

**(2) Avoidance of Fraudulent Transfer
(Constructive Fraud, Cal. Civ. Code §
3439.05);**

(3) Conspiracy to Defraud; and

(4) Declaratory and Injunctive Relief.

JURY TRIAL REQUESTED

1 Plaintiff TMCO, Ltd. (“TMCO”), alleges as follows:

2 **PARTIES, JURISDICTION AND VENUE**

3 1. TMCO is a company organized under Bulgarian law whose principal
4 place of business is in Veliko Tarnovo, Bulgaria.

5 2. Defendant Mikhail Brodsky is an individual who, on information and
6 belief, lives in California, within this judicial district.

7 3. Defendant Tatyana Brodsky is an individual who, on information and
8 belief, lives in California, within this judicial district.

9 4. Defendant Lincoln University is a non-profit organization organized
10 under the laws of the State of California whose principal place of business is in
11 Oakland, California, within this judicial district.

12 5. TMCO does not know the identity of all individuals who bear
13 responsibility for the wrongful actions alleged in this case and therefore sues those
14 defendants by fictitious names. TMCO will seek to amend this Complaint with the
15 identity of these Doe defendants when it discovers them.

16 6. The Court has jurisdiction under 28 U.S.C. § 1332 as the parties reside
17 in different countries and the amount in controversy exceeds \$75,000. Moreover, the
18 case arises out of a foreign arbitration that TMCO prevailed in against a third party,
19 Green Light Energy Solutions R&D Corp. (“Green Light Corp.”). A judge of this
20 Court confirmed TMCO’s arbitration award on November 14, 2017. Venue is
21 proper under 28 U.S.C. § 1391(b)(1) and (b)(2), as the Defendants reside in this
22 judicial district and “a substantial part of the events or omissions giving rise to the
23 claim occurred” here.

24 **FACTUAL ALLEGATIONS**

25 7. In 2012, TMCO and Green Light Corp. entered into a contract for
26 TMCO to produce and sell certain equipment parts to Green Light. TMCO produced
27 the products but Green Light failed to take delivery or pay for the products.

28 8. In 2014, TMCO initiated a proceeding with the International Chamber

1 of Commerce's Court of Arbitration. In January 2016, the arbitrator issued an award
2 in TMCO's favor and ordered Green Light to pay TMCO € 1,797,968.23, plus
3 \$107,000.00, plus interest.

4 9. Green Light did not pay the award. In fact, it never had the ability to
5 pay the award. TMCO learned much later that Green Light Corp. signed the
6 contracts with TMCO based purely on its belief that a third party might materialize
7 and purchase the equipment, compensating Green Light in the process. Therefore, in
8 February 2017, TMCO filed a petition to confirm the arbitration award and enter
9 judgment against Green Light Corp., which was based in San Francisco, in this
10 Court, *TMCO, Ltd. v. Green Light Energy Solutions R&D Corp.*, U.S. District Court
11 Case No. 3:17-cv-00997 (the "Green Light Case").

12 10. On November 14, 2017, Magistrate Judge Kandis A. Westmore granted
13 TMCO's petition and ordered Green Light Corp. to pay the full amount of the
14 arbitration award, plus interest. The court entered judgment the same day.

15 11. Still, Green Light refused to pay the judgment. TMCO therefore
16 proceeded to enforce the judgment against Green Light Corp. using all available
17 means. The court had to order Green Light Corp. to respond to discovery and
18 ordered Green Light's owner, Alex Feerer, to appear for a judgment debtor
19 examination in February 2018.

20 12. Mr. Feerer's examination took place over two days in February and
21 November 2018. Between those dates he also produced some documents regarding
22 Green Light Corp.'s corporate structure and business dealings but there was very
23 little evidence that Green Light followed the typical corporate formalities.
24 Moreover, it became clear that its business was completely intertwined with another
25 Green Light entity, Green Light Energy Solutions, LLC ("Green Light LLC").
26 Based upon the evidence discovered, it became evident that both Green Light
27 entities appeared to be fronts for Mr. Feerer himself as he regularly used corporate
28 bank accounts to pay his and his family's personal expenses. Green Light did not

1 produce this information willingly. TMC0 had to go to court numerous times,
2 conduct two in-person examinations of Mr. Feerer, and negotiate extensively with
3 Feerer’s counsel to obtain the requisite information.

4 13. On November 6, 2019, TMC0 filed a motion in the Green Light Case
5 to amend the judgment to include Mr. Feerer and Green Light LLC as judgment
6 debtors based on the alter ego doctrine. The motion was set for a hearing on January
7 16, 2020, but was later rescheduled to January 30, 2020.

8 14. The scheduling of the hearing, combined with the extensive discovery
9 and direct discussions with his counsel, meant that Feerer knew what was coming.
10 In anticipation of the successful motion to amend the judgment, he cleared out all of
11 Green Light Corp.’s bank accounts and threatened to put that company into
12 bankruptcy. Now he also needed to get rid of his other assets, most notably his
13 multi-million dollar penthouse near the San Francisco waterfront (the “Lombard
14 Street Condo”), which was listed for \$2.55 million at the time.

15 15. The Lombard Street Condo alone could have satisfied TMC0’s
16 judgment. But Feerer had to act quickly. That was a problem. The property had been
17 on the market for years. How could Feerer transfer a multi-million dollar condo in
18 two months—during the holidays, no less—without looking suspicious? The
19 answer: turn to a friend.

20 16. Thus, on November 11, 2019, just five days after TMC0 filed its
21 motion to amend the judgment in the Green Light Case, Feerer and his wife entered
22 into an agreement to sell the Lombard Street Condo to Mikhail Brodsky and his wife
23 Tatyana. A true and correct copy of that agreement is attached to this Complaint as
24 **Exhibit “A.”**

25 17. Mr. Brodsky is the president of Lincoln University, a small school in
26 Oakland. He is also a well-known property and business owner, the man who spent
27 more than a decade creating the clothing-optional Russian bathhouse called
28 “Archimedes Banya” in Bayview-Hunters Point. Brodsky made news in 2018 when

1 he sued to block the development of more than 1,500 homes near his bathhouse,
2 claiming that the homes would block the spa's water view and deprive customers of
3 "fresh air." Brodsky received \$100,000 to settle that case. The builder paid an
4 additional \$100,000 to Lincoln University as part of the deal.

5 18. On information and belief, Feerer knew Brodsky socially and had
6 turned to Brodsky several times since 2017 for money to pay his personal and
7 business expenses. Between February 28, 2017, and October 8, 2019, Brodsky
8 loaned Feerer \$330,000. Lincoln University loaned Feerer an additional \$850,000
9 during that time. At least one of the loans was made to Green Light Corp.

10 19. The Lincoln loans were secured by deeds of trust on the Lombard
11 Street Condo which were recorded on October 18, 2017, and July 19, 2018. The
12 Brodsky loans were not secured when made but Feerer subsequently gave Brodsky a
13 deed of trust for \$250,000, dated May 28, 2019, to secure the repayment of those
14 loans.

15 20. On information and belief, there was no mortgage on the Lombard
16 Street Condo as of November 11, 2019. Thus, even accounting for the
17 Lincoln/Brodsky deeds, Feerer had at least \$1 million of equity in the property—
18 money that could be used to help satisfy TMCO's judgment.

19 21. But Feerer did not want TMCO to recover anything. He also wanted to
20 preserve his chance to reclaim the Lombard Street Condo in the future. Thus, Feerer
21 and Brodsky concocted a plan to have Brodsky and his wife "buy" the Lombard
22 Street Condo for \$2.2 million, as reflected in Exhibit A. On paper, the sales price
23 was paid through a \$1.54 million loan from CrossCountry Mortgage, LLC, plus
24 \$660,000 from the Brodskys. But, on information and belief, the Brodskys did not
25 pay that money to Feerer. Instead, all \$2.2 million was paid into an escrow account.
26 Then, at closing, more than \$900,000 of that money was disbursed from the escrow
27 account to Brodsky to cover the outstanding balance of the Brodsky/Lincoln loans.
28 The remaining funds have not been accounted for but, on information and belief,

1 they were deposited into an account for the benefit of Feerer and his family.

2 22. The Feerer/Brodsky “sale” was a fraud. Feerer concocted the fake sale
3 to defraud TMCO, to prevent it from foreclosing on the Lombard Street Condo.

4 23. Indeed, the “sale” between Feerer and the Brodskys bears several
5 badges of fraud. *First*, it came on the heels of TMCO moving (successfully) to add
6 Feerer as a judgment debtor. *Second*, it was not an arms-length transaction but
7 involved people who had preexisting social and financial relationships. *Third*, the
8 sale agreement granted the Feerers unusual rights, including profit-sharing rights
9 and “a nontransferable option to repurchase the subject property for \$2,300,000 net
10 to Buyers.” *Fourth*, the Brodskys did not plan to live in the Lombard Street Condo
11 or rent the property out. On information and belief, the property has been vacant for
12 nearly a year. *Fifth*, the sale was rushed through and was specifically engineered to
13 close before the court ruled on TMCO’s motion to add Feerer as a judgment debtor.

14 24. On information and belief, the Brodskys knew, or reasonably should
15 have known, that Feerer intended to transfer the Lombard Street Condo to them to
16 avoid a pending judgment in TMCO’s favor and prevent TMCO from foreclosing on
17 the property. The Brodskys also knew, or reasonably should have known, that
18 Feerer wanted them to collect the money they loaned Feerer before TMCO
19 recovered anything. It is evident that the Brodskys did not take the Lombard Street
20 Condo in good faith, as bona fide purchasers paying reasonably equivalent value for
21 the property.

22 25. The Feerer/Brodsky “sale” was rushed through at the end of 2019 and
23 closed on January 24, 2020.

24 26. Meanwhile, Feerer and Green Light LLC failed to respond to TMCO’s
25 motion to add them as judgment debtors in the Green Light Case. On February 3,
26 2020, the court granted the motion, finding it to be “unopposed.”

27 27. On February 21, 2020, the Court entered an Abstract of Judgment with
28 Mr. Feerer, Green Light Corp., and Green Light LLC all listed as judgment debtors

1 in the Green Light Case. A true and correct copy of the entered Abstract of
 2 Judgment is attached as **Exhibit “B.”**

3 28. On March 11, 2020, TMCO recorded the Abstract of Judgment against
 4 the Lombard Street Condo. But it was too late. The Brodskys had the property now.
 5 It was only after that, during the summer of 2020, that TMCO discovered the
 6 fraudulent transfer of the property from Feerer to the Brodskys. Feerer, meanwhile,
 7 claims that he has no money left and will never be able to repay TMCO. Feerer
 8 believes that TMCO has plenty of money and should leave him alone.

9 29. That is not proper. Feerer is a businessman. He made a deal with
 10 TMCO and failed to uphold his end of the bargain. TMCO lost millions of dollars
 11 because of Feerer’s actions. It deserves to be made whole. And it should not be
 12 prejudiced because Feerer also failed to pay his friend Brodsky back. Feerer does
 13 not get to decide which of his creditors collects first. TMCO had the senior debt. It
 14 was closing in, preparing to record the judgment against the Lombard Street Condo
 15 and force a sale of that property to satisfy its judgment. Feerer defrauded TMCO
 16 when, knowing that, he quickly transferred the property to the Brodskys.

17 30. TMCO brings this action to set aside the fraudulent transfer of the
 18 Lombard Street Condo from the Feerers to the Brodskys and to recover the related
 19 damages, costs and attorneys’ fees it has incurred to unwind this fraudulent
 20 transaction.

21 **FIRST CAUSE OF ACTION**

22 **(Avoidance of Fraudulent Transfer, Intentional Fraud under** 23 **Cal. Civ. Code § 3439.04, against the Brodskys)**

24 31. TMCO repeats and re-alleges the preceding paragraphs of this
 25 Complaint as though set forth fully herein.

26 32. As of November 14, 2017, TMCO held a judgment against Green Light
 27 Corp. As of that date, Green Light Corp. was insolvent. In fact, it had been insolvent
 28 for years. Feerer was, and always has been, the alter ego of Green Light Corp., as

1 was subsequently confirmed by the court in the Green Light Case through a motion
2 that Feerer did not even oppose.

3 33. As of November 14, 2017, Green Light Corp had no assets to satisfy
4 the judgment that was awarded in the Green Light Case. Feerer's most valuable
5 asset was the Lombard Street Condo, which he had at least \$1 million of equity in.

6 34. As alleged above, in January 2020, Feerer and his wife transferred the
7 Lombard Street Condo to the Brodskys. The Feerers transferred the property to the
8 Brodskys with the specific intent to defraud TMCO and to prevent TMCO from
9 foreclosing on the property to satisfy the judgment that was issued in the Green
10 Light Case, a judgment that TMCO had already moved to amend to include Feerer
11 as the alter ego of Green Light Corp.

12 35. TMCO was damaged by the Feerers' fraudulent transfer of the
13 Lombard Street Condo to the Brodskys as it has been unable to foreclose on that
14 property to satisfy the judgment it obtained in the Green Light Case.

15 36. TMCO is entitled to an order avoiding the fraudulent transfer of the
16 Lombard Street Condo from the Feerers to the Brodskys and is entitled to a lien on
17 the property to preserve its interest in it.

18 37. TMCO is also entitled to injunctive relief and an attachment order to
19 prevent the Brodskys from transferring the Lombard Street Condo during this action
20 plus a reasonable amount of costs and attorneys' fees incurred to prosecute this
21 action.

22 **SECOND CAUSE OF ACTION**

23 **(Avoidance of Fraudulent Transfer, Constructive Fraud under**
24 **Cal. Civ. Code §§ 3439.04 and 3439.05, against the Brodskys)**

25 38. TMCO repeats and re-alleges the preceding paragraphs of this
26 Complaint as though set forth fully herein.

27 39. As of November 14, 2017, TMCO held a judgment against Green Light
28 Corp. As of that date, Green Light Corp. was insolvent. In fact, it had been insolvent

1 for years. Feerer was, and always has been, the alter ego of Green Light Corp., as
2 was subsequently confirmed by the court in the Green Light Case, through a motion
3 that Feerer did not even oppose.

4 40. As of November 14, 2017, Green Light Corp. had no assets to satisfy
5 the judgment that was awarded in the Green Light Case. Feerer's most valuable
6 asset was the Lombard Street Condo, which he had millions of dollars of equity in.

7 41. As alleged above, in January 2020, the Feerers transferred the Lombard
8 Street Condo to the Brodskys. This transfer was constructively fraudulent because it
9 was not made for reasonably equivalent value and because the Brodskys knew, or
10 reasonably should have known, that Feerer/Green Light owed money to TMCO and
11 that the Feerers transferred the property to prevent TMCO from foreclosing on the
12 property to collect its judgment. Furthermore, at the time of the transfer, Feerer had
13 no other assets and the transfer of the Lombard Street Condo rendered him
14 insolvent.

15 42. Moreover, at the time Feerer orchestrated the transaction, he was
16 engaged or was about to engage in a business or a transaction for which his
17 remaining assets were unreasonably small in relation to the business or transaction.
18 Feerer also intended to incur, or believed or reasonably should have believed he
19 would incur, debts beyond his ability to pay as they became due, thus rendering the
20 transaction void as to future creditors.

21 43. TMCO was damaged by the fraudulent transfer of the Lombard Street
22 Condo from the Feerers to the Brodskys as it has been unable to foreclose on that
23 property to satisfy the judgment it obtained in the Green Light Case.

24 44. TMCO is entitled to an order avoiding the fraudulent transfer of the
25 Lombard Street Condo from the Feerers to the Brodskys and is entitled to a lien on
26 the property to preserve its interest in the property.

27 45. TMCO is also entitled to injunctive relief and an attachment order to
28 prevent the Brodskys from transferring the Lombard Street Property during this

1 action plus a reasonable amount of costs and attorneys' fees incurred to prosecute
2 this action.

3 **THIRD CAUSE OF ACTION**

4 **(Conspiracy to Defraud, against the Brodskys)**

5 46. TMC0 repeats and re-alleges the preceding paragraphs of this
6 Complaint as though set forth fully herein.

7 47. As of November 11, 2020, the Brodskys knew that TMC0 had a
8 judgment against Green Light Corp. and knew that TMC0 had filed a motion to add
9 Feerer as a judgment debtor based on the alter ego doctrine. The Brodskys also
10 knew that once Feerer was added as a judgment debtor, TMC0 would seek to
11 foreclose on the Lombard Street Property and Feerer would not be able to use that
12 property to repay Brodsky and Lincoln University the money he owed them.

13 48. On information and belief, the Brodskys conspired with Feerer to
14 concoct a fake "sale" of the Lombard Street Condo to the Brodskys, with a closing
15 date before the date the court added Feerer as a judgment debtor in the Green Light
16 Case, to prevent TMC0 from foreclosing on the Lombard Street Condo to satisfy its
17 judgment. The "sale" was not a genuine, arms-length transaction, as evidenced by
18 the fact that the Brodskys, who had already loaned Feerer more than \$1 million, had
19 to "buy" the property, taking out a \$1.54 million loan to do so. The only purpose of
20 that loan was to inflate the "sale" price of the property so it looked legitimate.

21 49. The Brodskys knew that the fake "sale" of the Lombard Street Condo
22 was structured in a way to defraud TMC0 and they agreed with and encouraged that
23 strategy. In so doing, they unlawfully conspired with Feerer to defraud TMC0 and
24 prevent it from recovering its judgment from the Green Light Case.

25 50. TMC0 was damaged by the Brodskys' actions, as it has been unable to
26 foreclose on the Lombard Street Condo or collect against any other assets to satisfy
27 its judgment. The Brodskys' actions were an actual and substantial cause of that
28 harm.

51. As a result of the Brodskys' unlawful actions, TMCO has suffered damages in an amount to be proven at trial but which exceeds \$75,000. These damages include, but are not limited to, the loss in value of the Lombard Street Condo due to the delay in TMCO being able to foreclose on that property to satisfy its judgment.

52. The Brodskys acted with fraud, oppression or malice in engaging in the wrongful actions alleged above and thus are also liable for punitive damages in an amount to be proven at trial.

FOURTH CAUSE OF ACTION

(Declaratory and Injunctive Relief, against Lincoln University)

53. TMCO repeats and re-alleges the preceding paragraphs of this Complaint as though set forth fully herein.

54. In January 2020, the Feerers transferred the Lombard Street Condo to the Brodskys. As alleged above, this transfer was actually and constructively fraudulent and the result of a conspiracy between Feerer and the Brodskys to repay the Brodskys and Lincoln University the money they loaned to Feerer and to prevent TMCO from recovering any of the money Feerer owed it.

55. As a non-profit entity governed by a Board of Trustees, Lincoln could not engage directly in this conspiracy. But it benefitted from it, as Feerer and Brodsky used the proceeds from the sale of the Lombard Street Condo to repay, in full, the money Lincoln had loaned to Feerer.

56. TMCO contends that it is inequitable and unjust for Lincoln to keep these funds while a senior creditor like TMCO has been prevented from recovering anything as a result of the fraudulent actions and conspiracy alleged above.

57. On information and belief, Lincoln contends that it is not unjust for it to keep the proceeds it received from the fraudulent Lombard Street Condo transaction.

58. TMCO desires a judicial declaration that it is inequitable and unjust for Lincoln to keep these funds while a senior creditor like TMCO has been prevented

1 from recovering anything as a result of the fraudulent actions and conspiracy alleged
2 above.

3 59. Under 28 U.S.C. § 2201, a judicial determination of these issues is
4 necessary and appropriate because such a declaration will clarify the parties' rights
5 and obligations, permit them to have certainty regarding those rights and potential
6 liability, and avoid a multiplicity of actions.

7 60. TMCO is also entitled to an order disgorging some or all of the
8 proceeds Lincoln received from the fraudulent transfer of the Lombard Street Condo
9 and a constructive trust to secure the disgorgement of those funds.

10 **PRAYER FOR RELIEF**

11 Wherefore, TMCO prays for relief as follows:

12 1. For an order avoiding the transfer of the Lombard Street Condo from
13 the Feerers to the Brodskys;

14 2. For preliminary and permanent injunctive relief as authorized by law;

15 3. For a prejudgment writ of attachment as authorized by law;

16 4. For a judicial declaration that it is inequitable for Lincoln to keep the
17 proceeds it received from the fraudulent Lombard Street Condo transaction and an
18 order disgorging the proceeds Lincoln received from that transaction;

19 5. For compensatory damages exceeding \$75,000, to be proven at trial;

20 6. For prejudgment interest, costs, attorneys' fees as authorized by law;
21 and

22 7. For such other relief that the Court determines is just and proper.

23 DATED: December 22, 2020

MUSICK, PEELER & GARRETT LLP

24
25 By: 


26 Scott J. Street
27 Attorneys for Plaintiff
28 TMCO, Ltd.

JURY TRIAL DEMAND

Plaintiff TMCO, Ltd., requests a trial by jury on all claims for which it is available.

DATED: December 22, 2020

MUSICK, PEELER & GARRETT LLP

By: 

Scott J. Street
Attorneys for Plaintiff
TMCO, Ltd.